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Page 3

1 2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 3 ----- x
5 CARLOS RIVERA,

6 4 Plaintiff, Index No.
7 5 10-CIV-6611(WHP)
8 6 -against-
9 7 PLAZA ACCESSORY OWNERS, LP, et al.,
10 8 Defendants.
11 9 ----- x

12 10 EXAMINATION BEFORE TRIAL of the Defendant,
13 11 PLAZA ACCESSORY OWNERS, LP, et al., by RAJAN
14 12 LAI, taken by the Plaintiff, pursuant to Court
15 13 Order, held at the offices of Barrister
16 14 Reporting Service, Inc., 120 Broadway, Suite
17 15 1111, New York, New York, on May 3, 2011, at
18 16 10:10 a.m., before a Notary Public of the State
19 17 of New York.
20 18
21 19
22 20
23 21
24 22
25 23

26 24 BARRISTER REPORTING SERVICE, INC.
27 25 120 Broadway
28 New York, N.Y. 10271
29 212-732-8066

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Page 4

1 2 APPEARANCES:
3

4 5 FAUSTO E. ZAPATA, JR., P.C.,
6 Attorneys for Plaintiff
7 277 Broadway
8 New York, New York 10007

9 10 BY: FAUSTO E. ZAPATA, JR., ESQ.
11

12 12 LITTLER MENDELSON, PC
13 Attorneys for Defendants
14 One Newark Center
15 Newark, New Jersey 07102

16 17 BY: JACQUELINE McCLINTOCK, ESQ.
18

19 xxxxx
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25

1 2 STIPULATIONS
3

4 IT IS HEREBY STIPULATED AND AGREED by and between the
5 attorneys for the respective parties herein that
6 filing, sealing and certification, and the same, are
7 hereby waived.
8

9 IT IS FURTHER STIPULATED AND AGREED that all
10 objections except as to the form of the question
11 shall be reserved to the time of the trial.
12

13 IT IS FURTHER STIPULATED AND AGREED that the within
14 deposition may be signed and sworn to by an officer
15 authorized to administer an oath, with the same force
16 and effect as if signed and sworn to before the Court.
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25

1 Rajan Lai
2 R A J A N L A I,
3 having been first duly sworn before a
4 Notary Public of the State of New
5 York, was examined and testified as
6 follows:
7

8 EXAMINATION BY
9 MR. ZAPATA:

10 Q Please state your name for the record.

11 A Rajan Lai.

12 Q What is your address?

13 A 72 Hollow Tree Ridge Road, Darian,
14 Connecticut, 06820.

15 Q Mr. Lai, my name is Fausto Zapata.

16 I'm Carlos Rivera's attorney, representing
17 him in an action against The Plaza Hotel, his
18 current employer.

19 I brought you here today to ask some
20 questions relating to Carlos Rivera's
21 employment at The Plaza.

22 If at any point I ask you a question
23 and you don't understand the question, stop
24 me and ask me to rephrase it and I'll
25 rephrase it.

Page 5

1 Rajan Lai
 2 I'll ask you to verbalize all your
 3 answers because the stenographer has to
 4 maintain a record of everything that's being
 5 said today.
 6 Do you understand so far?
 7 A Yes.
 8 Q Is there any reason why you may not be
 9 able to proceed today?
 10 A I don't believe so, no.
 11 Q Are you taking any medications that
 12 may affect your ability to remember?
 13 A No, nothing out of the ordinary, no.
 14 Q I'll start. Mr. Lai, are you
 15 currently employed?
 16 A Yes.
 17 Q Where are you employed?
 18 A Thomson Hotels.
 19 Q In what capacity?
 20 A I'm the vice president of human
 21 resources for the group.
 22 Q How long have you been working there?
 23 A I commenced working there in, it was
 24 August of 2010.
 25 Q Can you please describe your job

Page 6

1 Rajan Lai
 2 duties there?
 3 A Certainly in my capacity I'm primarily
 4 consulting on strategic human resources
 5 issues with Thomson at the corporate office
 6 here in New York at 54 Thomson Street. I
 7 assist the owner with the administration,
 8 with the planning, with the execution of all
 9 human resources issues that impact ten of the
 10 Thomson hotels all over North America.
 11 I work very closely with all the
 12 properties on a day-to-day basis assisting in
 13 terms of recruitment, in terms of benefits,
 14 in terms of risk management, in terms of
 15 immigration issues, legal issues, public
 16 relations, the whole gamut of the human
 17 resources discipline.
 18 Q Where did you work prior to working
 19 for Thomson?
 20 A Immediately prior to Thomson I was
 21 with Fairmont Hotels & Resorts at The Plaza
 22 Hotel.
 23 Q In what capacity?
 24 A As director of human resources for The
 25 Plaza.

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1 Rajan Lai
 2 Q When did you begin to work at The
 3 Plaza?
 4 A March of 2007.
 5 Q What was your position?
 6 A I was the director of human resources.
 7 Q Can you please describe your duties as
 8 the director of human resources at The Plaza?
 9 A Well, my primary duty was the
 10 oversight of the human resources for The
 11 Plaza Hotel, which is comprised of 282 rooms,
 12 a mixture of transient rooms as well as
 13 condominiums that we were selling as part of
 14 the hotel portfolio of rooms. My
 15 responsibility was the establishment of human
 16 resources.
 17 The Plaza had been closed. It
 18 underwent an extensive renovation. I was
 19 entrusted with the responsibility of opening
 20 the hotel, of creating the human resources
 21 for the property, for hiring, for recall of
 22 Plaza employees, for administering the
 23 severance payments to those employees that
 24 were not coming back, to set the Five Star
 25 standards for the hotel, to bring in the fame

Page 8

1 Rajan Lai
 2 and culture into The Plaza, to ensure that
 3 The Plaza Hotel was operating from a human
 4 resource perspective in line with the
 5 standards of the Fairmont hotels, as for all
 6 its global hotels all over the world.
 7 So, my responsibility really was to
 8 drive the human resources in the hotel, to
 9 make this an employer of choice, to make it a
 10 Five Star hotel when it re-opened.
 11 Q Were you asked to resign from your
 12 position at The Plaza Hotel?
 13 A We were mutually -- I left in good
 14 terms. It was a mutual understanding between
 15 myself and Fairmont that I would leave The
 16 Plaza.
 17 Q Were you asked by The Plaza to leave
 18 your employment at any point; yes or no?
 19 MS. McCLINTOCK: Objection.
 20 You can answer.
 21 A We had a mutual understanding after a
 22 period of time when The Plaza was opened that
 23 I would move on to another opportunity.
 24 Q Whose idea was it first?
 25 A We had been having discussions between

Page 9

1 Rajan Lai
 2 myself and management of the hotel and came
 3 to a point where I decided that it would be
 4 in our mutually best interest for us to part
 5 ways.
 6 Q Who raised the idea first?
 7 A The idea first was brought up by The
 8 Plaza.
 9 Q Who brought it up?
 10 A My general manager, the gentleman I
 11 reported to.
 12 Q Who was that?
 13 A His name is Shane Krige.
 14 Q When did Mr. Krige raise this?
 15 A I believe it was March of 2010.
 16 Q Prior to working at The Plaza, where
 17 did you work?
 18 A Prior to The Plaza, I was in Boston.
 19 I was working for Taj Hotel Resorts.
 20 Q In what capacity?
 21 A I was the director of resources of the
 22 Taj in Boston.
 23 Q How long did you work there?
 24 A I was there for approximately a year.
 25 Q One year?

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1 Rajan Lai
 2 A Yes.
 3 Q When did you start? What month and
 4 year?
 5 A I started with the company at The
 6 Pierre Hotel. I believe I started maybe
 7 February 2005, and then from work I
 8 transferred to Boston because the company had
 9 acquired a hotel in Boston and they asked me
 10 to set up the human resources in that hotel.
 11 And that's why I moved to Boston.
 12 Q You stopped working there when?
 13 A March, when I came to The Plaza.
 14 Q Prior to working for this employer,
 15 where did you work?
 16 A Prior to this employer, prior to Taj I
 17 was with Raffles Hotels & Resorts.
 18 Q When did you start working at Raffles
 19 Hotels & Resorts?
 20 A I believe it was February of 2000, I
 21 think.
 22 Q That's when you started. When did you
 23 stop working there?
 24 A I stopped working there in 2005, when
 25 I joined the Taj.

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1 Rajan Lai
 2 Q February 2005?
 3 A Approximately, that would be right.
 4 Q Prior to working at Raffles Hotels &
 5 Resorts, where did you work?
 6 A I was with Starwood Hotels & Resorts.
 7 Q In what capacity did you start at
 8 Starwood?
 9 A I was the area director of human
 10 resources for Starwood in Massachusetts.
 11 Q What was your position at Raffles
 12 Hotels & Resorts?
 13 A I was the regional vice president for
 14 human resources for North America.
 15 Q When did you start working at
 16 Starwood?
 17 A When did I start?
 18 Q Yes.
 19 A I started working at Starwood in 1999.
 20 Q When did you stop working there?
 21 A 2001, when I joined Raffles.
 22 Q I thought you started working at
 23 Raffles in February 2000?
 24 A It would be 2000, right. It would be
 25 2000.

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1 Rajan Lai
 2 Q Did you go to college?
 3 A Yes, sir.
 4 Q Did you obtain a degree?
 5 A Yes, I did.
 6 Q What did you obtain a degree in?
 7 A In hotel management.
 8 Q Is that a bachelor's?
 9 A A master's.
 10 Q A master's program?
 11 A Yes, sir.
 12 Q Where did you obtain your master's?
 13 A From Cornell University.
 14 Q Your bachelor's?
 15 A My bachelor's is in history. I have a
 16 master's and a bachelor's in history, and I
 17 did that from India. I also have a
 18 postgraduate degree in hospitality management
 19 from India.
 20 Q Aside from your bachelor's and
 21 master's, have you received any other
 22 training relating to your role as human
 23 resources expert?
 24 A Yes. I have had extensive training
 25 throughout my career in all the companies

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1 Rajan Lai
 2 that I've been affiliated with. I was
 3 responsible for running training, executing
 4 training. I started in New York City at the
 5 Barclay Hotel as director of training for the
 6 Barclay and the Connecticut Hotel in 1987.
 7 And I left that hotel as director of human
 8 resources after 13 years. And I was running
 9 all the training programs. And as I've grown
 10 in my career, I've been exposed to various
 11 training programs, legal as well as human
 12 resources-related, yes.
 13 Q During your employment at The Plaza
 14 Hotel, did you ever receive any performance
 15 evaluations?
 16 A There's no written performance
 17 evaluations.
 18 Q Did you receive any evaluations that
 19 were communicated to you orally?
 20 A I had discussions with my manager
 21 about my performance from time to time.
 22 Q Can you please elaborate as to what
 23 you were told regarding your performance?
 24 A It was all positive. It was all
 25 positive, that I was fulfilling my

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1 Rajan Lai
 2 obligations and my responsibilities in my
 3 capacity as director of human resources.
 4 Q When you were hired at The Plaza as
 5 director of human resources, what was your
 6 involvement with respect to training
 7 regarding equal employment opportunity?
 8 A Well, I make sure that we have
 9 extensive training with regard to the equal
 10 employment opportunity laws both for the
 11 leadership as well as for the colleagues of
 12 The Plaza. I hired an attorney from a legal
 13 firm to actually do the training for the
 14 hotel. I wanted to bring in an expert who is
 15 well versed in EEOC laws to do the training.
 16 So we had an eight-hour session for all the
 17 managers in The Plaza and a four-hour session
 18 both in English. And I flew an attorney in
 19 from Florida who was bilingual who did it in
 20 Spanish for four hours for all the line
 21 employees, all the colleagues at The Plaza.
 22 So we had an extensive training
 23 program with regard to EEOC as soon as we
 24 opened and we continued with the training as
 25 we got into the operations.

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1 Rajan Lai
 2 Q If you know, do you know if any
 3 particular laws were covered in the training?
 4 A Yes, sir. All Title 7 was covered,
 5 the entire aspect of harassment was covered,
 6 mutual respect in the work environment. We
 7 trained around that. Yes, we did an
 8 extensive four-hour training for all the line
 9 employees. Case studies, ran certain
 10 scenarios so they can recognize harassment
 11 and recognize discrimination. Reporting how
 12 to go about recording it, whose attention to
 13 bring it to. Remedial actions management was
 14 obligated to take, and in the event of any
 15 complaint of discrimination or harassment.
 16 Q Are you familiar with Title 7?
 17 A I am familiar with it, yes.
 18 Q How did you become familiar with Title
 19 7?
 20 A Through my own understanding and
 21 through my own pursuit of this part of the
 22 law so that I'm familiar with it in my
 23 capacity as human resources manager. It's
 24 something I need to be aware of and need to
 25 monitor. I need to be able to recognize. I

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1 Rajan Lai
 2 need to be able to enforce in the work
 3 environment. So, I made it a point.
 4 In addition to that, I'm a member of
 5 the Society for Human Resources Management.
 6 I keep abreast with what's happening in our
 7 industry. I'm doing my certification as a
 8 senior professional in human resources
 9 management, in which we have to understand
 10 the laws and how to interpret them and apply
 11 them in the work environment.
 12 Q Are you familiar with the New York
 13 City Human Rights Law?
 14 A Yes, sir.
 15 Q When did you become familiar with the
 16 New York City Human Rights Law?
 17 A I've been working with the human
 18 resources in New York since 1987, and I
 19 quickly made it my duty to understand both
 20 the New York City Human Rights Law, the State
 21 Human Rights Department, and how it operates,
 22 and Equal Employment Opportunity. All the
 23 laws that it's mandated to enforce. It goes
 24 back to my start in New York City in 1987.
 25 Q The training at The Plaza, was it

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1 Rajan Lai
 2 based on Title 7?
 3 A It included -- a big part of it was
 4 Title 7, yes.
 5 Q How about the New York City Human
 6 Rights Law?
 7 A Yes, it covered that. It covered
 8 Title 7. It covered the State Division of
 9 Human Rights.
 10 MR. ZAPATA: I'm going to show
 11 you a document that I'd like to have
 12 marked for identification as P-1.
 13 (Whereupon Trades Council
 14 version of industry-wide collective
 15 bargaining agreement is marked
 16 Plaintiff's Exhibit 1 for
 17 identification as of this date.)
 18 Q I want you to review the document that
 19 I've just handed you that has been identified
 20 as P-1. After you're finished reviewing it,
 21 I'd like you to look up at me.
 22 A Yes.
 23 Q Do you recognize the document that I
 24 have just given you?
 25 A Yes.

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1 Rajan Lai
 2 Q What do you recognize this document to
 3 be?
 4 A This is the Trade's Council's version
 5 of the industry-wide collective bargaining
 6 agreement.
 7 Q How do you recognize this document?
 8 A I've seen this, sir, before.
 9 Q In what capacity did you see it?
 10 A In my capacity as human resource
 11 director. I have a copy of the union version
 12 of the industry by collective bargaining
 13 agreement.
 14 Q Did you become familiar with this
 15 document as your role as director of human
 16 resources at The Plaza Hotel?
 17 A I believe I might have seen it even
 18 before I moved to The Plaza in my prior roles
 19 in New York City.
 20 Q You said this is the union's version
 21 of the industry-wide agreement?
 22 A Yes, sir.
 23 Q What do you mean by that?
 24 A There are two documents. There have
 25 always been two documents, to the best of my

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1 Rajan Lai
 2 knowledge, one that the hotel association put
 3 out and one that the trades council put out.
 4 I cross-reference both to make sure
 5 that I'm adhering to the agreement.
 6 Q Are both of them identical?
 7 A Pretty close, I believe, with some
 8 variations. For instance, the opening
 9 paragraph is not part of the hotel
 10 association document that I've seen.
 11 Q Aside from that section, is it
 12 identical?
 13 A Again, to the best of my knowledge, it
 14 is fairly close. There may be some nuances
 15 here and there. I couldn't recollect exactly
 16 what, where, but I know that there was an
 17 attempt made by both parties to come up with
 18 a single document so that both parties could
 19 look at the same document.
 20 Q What role did this document that's
 21 been marked for identification as P-1 have
 22 with respect to the terms and conditions of
 23 employment of The Plaza Hotel employees from
 24 2008 until the time that you stopped working
 25 there?

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1 Rajan Lai
 2 A Well, I went by the industry, by the
 3 collective bargaining agreement that the
 4 hotel association had put out, and that was
 5 my -- that was the definitive document that I
 6 worked from. But I did see this document as
 7 well. It was floating in the hotel and I did
 8 see it.
 9 Q I guess what I'm asking you is what
 10 weight did you give this document with
 11 respect to the terms and conditions of
 12 employment of The Plaza Hotel during the time
 13 you worked there as the director of human
 14 resources?
 15 A I give it great weight. As I said, my
 16 document was the hotel association
 17 industry --
 18 Q I guess I'm just focusing on this
 19 document. We can get to the other document
 20 later.
 21 A I would cross-reference this document.
 22 I would use it as a cross-reference.
 23 Q I guess my question is what weight did
 24 you give this document when it came to the
 25 terms and conditions of employment for The

Page 21

1 Rajan Lai
 2 Plaza hotels that were covered under this
 3 agreement?
 4 A I gave it weight. I gave it
 5 considerable weight.
 6 Q Did you view this as a contract?
 7 A Yes, sir.
 8 Q As an enforceable contract?
 9 A Absolutely.
 10 Q You've read this document?
 11 A I have looked at it. I can't say I
 12 read it from cover to cover, word-for-word,
 13 but I have had occasion to look into it, yes.
 14 Q You are familiar?
 15 A I am familiar with it, yes.
 16 Q Do you know if Carlos Rivera was
 17 covered under the contract that's been marked
 18 for identification as P-1?
 19 A Yes, sir.
 20 Q Yes, Carlos Rivera was covered, or
 21 yes, you know?
 22 A Yes, he was covered.
 23 MR. ZAPATA: I'm going to show
 24 you this document that I'd like to
 25 have marked for identification as P-2.

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1 Rajan Lai
 2 (Whereupon side agreement is
 3 marked Plaintiff's Exhibit 2 for
 4 identification as of this date.)
 5 Q Do you recognize the document that I
 6 have just given you?
 7 A Yes, I do.
 8 Q What do you recognize this document to
 9 be?
 10 A This is a side agreement that was
 11 negotiated between The Plaza and the Trades
 12 Council that governed the terms and
 13 conditions of the new Plaza.
 14 Q Can you nail it down to time frame for
 15 the record?
 16 A When this was negotiated?
 17 Q That wasn't a good question.
 18 MR. ZAPATA: Strike that.
 19 Q You said it was for the new Plaza?
 20 A Yes, sir.
 21 Q What do you mean by that?
 22 A The Plaza closed in April of 2005 and
 23 didn't reopen until March of 2008. So it was
 24 opening as a new hotel, and part of that
 25 opening entailed both the management and

Page 23

1 Rajan Lai
 2 ownership of The Plaza and the Trades Council
 3 sitting around the table. And from my
 4 knowledge is it was broken by the mayor, and
 5 an agreement was reached with regard to the
 6 terms and conditions of the opening of the
 7 new hotel.
 8 The old hotel was much larger in terms
 9 of rooms. There was structural changes to
 10 the building, and consequently was a whole
 11 new hotel that was going to be reopening.
 12 Q This contract addressed what part of
 13 the reopening?
 14 A This contract addresses the terms and
 15 conditions of new hotel with regard to
 16 classifications, with regard to wages. I
 17 believe there is a portion here that might
 18 even address the recall process, so all the
 19 agreements that were going to be prevalent in
 20 the new hotel.
 21 The foundation remains the
 22 industry-wide agreement, but this was an
 23 enhanced agreement on 13th of April 2005,
 24 which both parties agreed to that would
 25 govern the opening of the new hotel.

Page 24

1 Rajan Lai
 2 Q Thank you. I'm going to show you this
 3 document that I'd like to have marked for
 4 identification as P-3.
 5 (Whereupon letter from Rajan
 6 Lai to Carlos Rivera dated January 25,
 7 2008, is marked Plaintiff's Exhibit 3
 8 for identification as of this date.)
 9 Q Do you recognize the document I have
 10 just given you?
 11 A Yes, I do.
 12 Q What do you recognize this document to
 13 be?
 14 A This is the letter I sent to
 15 Mr. Carlos Rivera indicating that he would be
 16 recalled to the new Plaza effective
 17 February 11, 2008, to the position of a
 18 bartender, and I asked him to confirm his
 19 intention whether he intends returning by
 20 February 11. Otherwise I would assume that
 21 he's not interested in coming back. And that
 22 he would be trained and expected to meet the
 23 new standards for the Five Star, Five Diamond
 24 hotel.
 25 Q Thanks. When did you send that letter

Page 25

1 Rajan Lai
 2 out?
 3 A It's dated January 25, 2008.
 4 Q That was around the time that you sent
 5 it out?
 6 A Yes, sir.
 7 Q I'm going to show you this document
 8 I'd like to have marked for identification as
 9 P-4.
 10 (Whereupon document is marked
 11 Plaintiff's Exhibit 4 for
 12 identification as of this date.)
 13 Q Do you recognize the document that I
 14 have just given you?
 15 A I don't recognize this particular
 16 document, but I've seen this document in
 17 certain instances.
 18 Q Without looking at what is manually
 19 written into this document, you stated that
 20 you're familiar with the content of the
 21 preprinted material, correct?
 22 A I have seen it in certain instances,
 23 yes.
 24 Q You're familiar with the language?
 25 A I've read it in the past, yes.

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1 Rajan Lai
 2 Q You stated you read it in the past.
 3 When did you read it?
 4 A I read it in the context of employees
 5 bringing it to me and showing me that they
 6 were still retaining their recall rights, and
 7 those instances when they brought me the
 8 document I took a look at it.
 9 Q Which employees?
 10 A Several of the employees who came back
 11 to The Plaza.
 12 Q So The Plaza employees?
 13 A Yes, sir.
 14 Q What was your understanding of the
 15 recall rights that bartenders like Carlos
 16 Rivera enjoyed when The Plaza was re-opened
 17 in early 2008?
 18 A Specifically to the bartenders, like
 19 all classifications, those Plaza employees
 20 who retained their recall rights would be
 21 called back to their prior classification if
 22 it still existed in the new Plaza, and if
 23 there was an opening for them in that
 24 particular classification.
 25 Q When you say classification, what do

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1 Rajan Lai
 2 you mean?
 3 A The industry-wide agreement documents
 4 all the different roles in a hotel by job
 5 classification. So, for instance, a
 6 bartender would be a job classification, and
 7 within bartenders you would have public
 8 bartenders and service bartenders, similar
 9 that you would have waiters and waitresses
 10 and bellmen and doormen. These are all
 11 classification, job classifications in a
 12 hotel as per the industry by agreement.
 13 Q Just to be clear, a bartender is a
 14 classification?
 15 A Yes, sir.
 16 Q An independent classification?
 17 A It's an independent classification.
 18 Front bartenders and service bartenders are
 19 two independent classifications within
 20 schedule A of the industry-wide agreement.
 21 Q Mr. Rivera's classification was
 22 bartender, as far as you know?
 23 A A service bartender. A private dining
 24 room bartender, which is akin to a service
 25 bartender.

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1 Rajan Lai
 2 Q Why did your letter dated January 25,
 3 2008, which has been marked as P-3, why did
 4 it say bartender and not service bartender or
 5 private dining bartender?
 6 A We didn't have a private dining
 7 bartender. That classification was no longer
 8 in existence at The Plaza. We did have a
 9 bartender in The Palm Court Restaurant, and
 10 we had bartenders in The Rose Club and in The
 11 Champagne Bar.
 12 Q I guess my question is how come the
 13 letter which is identified as P-3 does not
 14 identify Mr. Rivera's classification as being
 15 service bartender, like you just testified?
 16 A Because he was The Palm Court
 17 bartender, and that was my understanding,
 18 that he was coming back to work in The Palm
 19 Court Restaurant as a bartender.
 20 Q What kind of bar was The Palm Court?
 21 A The Palm Court was a bar that was
 22 again adjacent to the restaurant. So, all
 23 the liquor, all the drinks for The Palm Court
 24 Restaurant would be coming out of The Palm
 25 Court Bar.

Page 29

1 Rajan Lai
 2 Q How did you come to believe that
 3 Carlos Rivera was a service bartender at The
 4 Plaza Hotel prior to its closing in 2005?
 5 A So, he was a private dining bartender.
 6 His classification that he was given by the
 7 company reflected him as a private dining
 8 bartender. From my understanding -- I wasn't
 9 part of The Plaza prior to its closing, but
 10 it was my understanding that it was a bar for
 11 private dining, which is room service orders
 12 would come out of this bar. And Mr. Rivera
 13 was classified as a private dining bartender.
 14 Q Do you know who Liam Flannagan is?
 15 A Yes, sir.
 16 Q Do you know what his job
 17 classification was?
 18 A I believe it was an Oyster Bar
 19 bartender.
 20 Q Oyster Bar?
 21 A Yes, sir.
 22 Q What did you believe that Liam
 23 Flanagan's job classification was at The
 24 Plaza in 2005 at the time that he was rehired
 25 in 2008?

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1 Rajan Lai
 2 A Can you repeat that question?
 3 MS. McCLINTOCK: Objection.
 4 Q What did you believe that Liam
 5 Flanagan's job classification was at the old
 6 Plaza when you hired him in 2008?
 7 MS. McCLINTOCK: Objection.
 8 Objection to form.
 9 A His clarification reflected that of an
 10 Oyster Bar bartender.
 11 Q Where did you get that information?
 12 A From the documentation that was given
 13 to me.
 14 Q What document?
 15 A It was a document given to me that was
 16 prepared by the human resources department
 17 prior to the closure of The Plaza, where all
 18 the employees were classified as per the job
 19 classification.
 20 MR. ZAPATA: I show you this
 21 document I'd like to have marked for
 22 identification as P-5.
 23 (Whereupon document is marked
 24 Plaintiff's Exhibit 5 for
 25 identification as of this date.)

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1 Rajan Lai
 2 Q Do you know who David C. Jones is?
 3 A I know of him. I never met him.
 4 Q What do you know about him?
 5 A That he was working at The Plaza, the
 6 human resources department.
 7 Q Do you know in what capacity?
 8 A It says human resources manager.
 9 Q Was there a human resources manager at
 10 The Plaza when you worked there?
 11 A We had changed it. We had an
 12 assistant director of human resources and
 13 human resource coordinator and a director for
 14 training. It was changed.
 15 Q Do you know what David C. Jones' job
 16 duties were when he was employed as a human
 17 resource manager at The Plaza Hotel?
 18 A No, sir.
 19 Q Have you ever seen the document that
 20 I've just given you that's been marked for
 21 identification as P-5?
 22 A I might have seen it.
 23 Q You're familiar with this document?
 24 A I believe I saw it before. Yes, I
 25 believe I have seen it.

Page 32

1 Rajan Lai
 2 Q When do you believe you've seen it?
 3 A When I was at The Plaza.
 4 Q Do you know when you saw it?
 5 A I don't recall specifically.
 6 Q But you did see this when you were
 7 employed at The Plaza?
 8 A I did see it, yes, sir.
 9 MR. ZAPATA: I'm going to show
 10 you this document that I would like to
 11 have marked for identification as P-6.
 12 (Whereupon seniority list of
 13 bartenders is marked Plaintiff's
 14 Exhibit 6 for identification as of
 15 this date.)
 16 Q Do you recognize the document I have
 17 just given you?
 18 A Yes, I do.
 19 Q What do you recognize the document to
 20 be?
 21 A This is my response to a subpoena from
 22 the attorney for the Trades Council
 23 requesting a current seniority list of the
 24 bartenders at The Plaza.
 25 MR. ZAPATA: Let's take a

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1 Rajan Lai
 2 five-minute break.
 3 (Whereupon, a discussion was
 4 held off the record.)
 5 Q I want to you look at the second page
 6 of the document I have just given you that
 7 has been marked for identification as P-6.
 8 Do you recognize the names on that list?
 9 A Yes, I do.
 10 Q Liam Flanagan, are you familiar with
 11 Liam Flanagan?
 12 A I am familiar with him, yes.
 13 Q Do you know him?
 14 A I know him, yes.
 15 Q Can you estimate about how old he is?
 16 A I wouldn't have any idea. I wouldn't
 17 have an idea.
 18 Q No idea?
 19 A I can roughly approximate his age. I
 20 can't tell you his date of birth.
 21 Q Not his date of birth. Can you
 22 approximate about how old he is, roughly?
 23 A I mean, if I had to make a guess --
 24 Q Don't guess. Do you know what color
 25 his skin is, Liam Flanagan? What color is

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1 Rajan Lai
 2 his complexion?
 3 A What color is his complexion?
 4 Q Or do you know what his ethnic
 5 background is?
 6 A I believe his name is an Irish name so
 7 I'm assuming he would be of Irish origin.
 8 Q Have you ever spoken to him?
 9 A I've spoken to him, yes.
 10 Q Does he have an accent?
 11 A Not that I can recognize. He might
 12 have a slight Irish lilt to his voice.
 13 Q He has an Irish accent?
 14 A I mean, he speaks regularly. I didn't
 15 notice any accent, no.
 16 Q Carlos Rivera, do you know what his
 17 ethnic background is, by any chance?
 18 A I would put him as a Hispanic.
 19 Q Do you know about how old he is?
 20 A I wouldn't know unless I saw the date
 21 of birth.
 22 Q By looking at him, you can't
 23 approximate about how old he is?
 24 A That's purely a conjecture. I have no
 25 way of knowing.

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1 Rajan Lai
 2 Q Ebelio Tejada, can you describe what
 3 he looks like?
 4 A He's very presentable. I put him
 5 about maybe 5'5" or thereabouts in height.
 6 Dark hair. Dark eyes.
 7 Q Do you know what his ethnic background
 8 is?
 9 A I would put him perhaps as Hispanic as
 10 well.
 11 Q Robert Kenyon, are you familiar with
 12 him?
 13 A Unless I see the photograph, it would
 14 be hard for me to place him.
 15 Q Do you recognize the name?
 16 A I recognize the name, yes.
 17 Q Why do you recognize the name?
 18 A Because I hired him. He worked at The
 19 Plaza.
 20 Q Did you fire him?
 21 A I don't recall.
 22 Q How about Prather Rehm. Did you hire
 23 her?
 24 A Yes, sir.
 25 Q How about Heather Buesing. Did you

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1 Rajan Lai
 2 hire her?
 3 A Yes, I did.
 4 Q Laura Schweitzer, did you hire her?
 5 A Yes.
 6 Q Sean O'Toole, did you hire him?
 7 A Yes.
 8 Q Miguel Aranda, did you hire him?
 9 A Yes.
 10 Q Derek Michalak, did you hire him?
 11 A Yes.
 12 Q Did you interview them?
 13 A Yes.
 14 Q Just so the record is clear, you
 15 interviewed Robert Kenyon, yes or no?
 16 A The protocol is that I would
 17 interview. We hired collectively. I wasn't
 18 exclusively doing the hiring.
 19 Q Who was involved in the hiring?
 20 A The food and beverage the director of
 21 the restaurants.
 22 Q Can you give me the name?
 23 A Carlos Bueno and the director of
 24 beverages, Anthony Evangelista. Along with,
 25 in certain instances, it was my assistant

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1 Rajan Lai
 2 director of human resources that was involved
 3 as well.
 4 Q What is the name?
 5 A Marta Reus.
 6 Q She was your assistant director, you
 7 said?
 8 A Yes.
 9 Q Can you explain to us what the process
 10 was for hiring new employees when The Plaza
 11 re-opened in 2088?
 12 A Sure. We had a fairly comprehensive
 13 strategy to recruit the most suitable
 14 candidates for the new Plaza, so we
 15 advertised. We used Time Out magazine. In
 16 fact, I had a company that I sought some
 17 guidance from in terms of what would be the
 18 best avenues by which to put the message out
 19 that The Plaza was reopening and we were
 20 consequently looking to fill some positions.
 21 And then certainly, human resource
 22 recruiting side, we listed on Craigslist, and
 23 as we got applicants we would screen them.
 24 And I would then -- either my assistant would
 25 ask them to -- for the manager to take a look

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1 Rajan Lai
 2 at, and then the manager would give his or
 3 her input in terms of who would be in their
 4 opinion best qualified for the job. And
 5 based on the manager's recommendations and
 6 our own interpretation of the resumes, we
 7 would schedule candidates to come in and meet
 8 with us for interviews.
 9 Q Meet with us?
 10 A Yes.
 11 Q Who is us?
 12 A Human resources. Marta Reus, myself
 13 the food and beverage manager in the case of
 14 food and beverage stuff. Front office
 15 manager in the case of front office stuff.
 16 So on and so forth.
 17 And based on the collective
 18 interviews, we would then make a final
 19 determination as to who would be best
 20 qualified for the job.
 21 Q You said qualified. What did you
 22 consider to be qualified at the time that you
 23 were hiring bartenders to work at the new
 24 Plaza in 2008?
 25 A By qualified, I was also looking at

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1 Rajan Lai
 2 who would be the most suitable for a role,
 3 who would have the bartending knowledge that
 4 we were looking for, who would be able to
 5 adhere to the Five Star standards that we
 6 were striving to accomplish with The Plaza.
 7 Who would have the interpersonal abilities to
 8 be able to be sufficiently extroverted to
 9 interact with the clientele. Who would be
 10 conscientious and responsible employees. Who
 11 would have the mental ability to grasp the
 12 standard operating procedures for the hotel.
 13 Who would have good ability to communicate at
 14 all levels, because that's a critical role in
 15 the bartending profession.
 16 There was a whole host of issues that
 17 we would look at to decide who would be the
 18 most suitable for the role.
 19 Q How much weight was prior experience
 20 given with respect to hiring the new
 21 employees to work as bartenders at The Plaza
 22 when you hired new employees in 2008?
 23 A Only so much as the knowledge. When
 24 we talk about prior experience, one is really
 25 looking for their knowledge of bartending, so

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1 Rajan Lai
 2 that was certainly a criteria that we were
 3 looking for. That is whether the person came
 4 from an establishment that would give this
 5 person the practical knowledge of working in
 6 an establishment such as The Plaza.
 7 Q Where did you obtain the list on page
 8 two of the document that's been marked for
 9 identification as P-6?
 10 A From my computer. We had a human
 11 resource information system where we kept all
 12 employee data. It's a company-wide human
 13 resource information system. So, data for
 14 all 30,000 employees of the company are
 15 maintained in that database, and each hotel
 16 has access to their employees.
 17 Q Does that database contain the work
 18 histories of employees that had worked at The
 19 Plaza Hotel prior to its closure in 2005?
 20 A I don't believe so, no. It was
 21 uploaded when we re-opened The Plaza.
 22 Q Did you obtain any information
 23 relating to employees from the human resource
 24 department relating to employees that had
 25 been working at The Plaza prior to 2005?

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1 Rajan Lai
 2 A Yes, I did.
 3 Q What kind of information did you
 4 receive?
 5 A I received the recall file in terms of
 6 who was employed at The Plaza, the job
 7 classification, the hire date, the last
 8 wages, the hours that they worked in that
 9 particular classification. Based on that, I
 10 recalled the employees that were on the
 11 recall list. And subsequently we brought all
 12 the personnel files via storage.
 13 But once the hotel opened, then we
 14 brought all the personnel files back to the
 15 property.
 16 Q Did you ever review Carlos Rivera's
 17 personnel file?
 18 A I probably did, sir. I would think I
 19 would have done it.
 20 Q When you rehired Carlos Rivera, as
 21 indicated in the January 25, 2008, letter
 22 that has been marked for identification as
 23 P-3, what was your intention with respect to
 24 what position Carlos Rivera would be
 25 assigned?

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1 Rajan Lai
 2 A That he would be assigned as a
 3 bartender in The Palm Court.
 4 Q That was the intention at the time
 5 that he was extended an offer?
 6 A Yes.
 7 Q I'm going to show you this document
 8 that I would like to have marked for
 9 identification as P-7.
 10 (Whereupon Champagne Bar
 11 schedule is marked Plaintiff's Exhibit
 12 7 for identification as of this date.)
 13 Q Do you recognize the document that I
 14 have just given you that's been marked for
 15 identification as P-7?
 16 A This is a Champagne Bar schedule.
 17 Q The Champagne Bar, what kind of bar
 18 was that?
 19 A As the name applies, it was primarily
 20 serving champagne, high-end champagne that is
 21 sold by the glass and by the bottle. It's at
 22 the lobby of the new Plaza.
 23 Q Do you know when this document was put
 24 together?
 25 A It would have been put together

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1 Rajan Lai
 2 contractually. We have to put the work
 3 schedules up a week before the actual
 4 workweek, so this is dated January 11. So it
 5 should have gone up latest by the 4th of
 6 January.
 7 Q In this document, was Carlos Rivera
 8 listed as one of the bartenders at The
 9 Champagne Bar and Rose Club?
 10 A Yes.
 11 Q Why is that?
 12 A Because The Palm Court wasn't open at
 13 that time. We had recalled bartenders in
 14 that special department, but it was still
 15 under construction. And the first bar to
 16 open was The Champagne Bar.
 17 Q When did The Palm Court open?
 18 A March 1, 2008.
 19 Q Was that the first bar to open, The
 20 Champagne Bar?
 21 A Yes, I believe so.
 22 Q What was the second bar to open?
 23 A I think The Rose Club and The Palm
 24 Court opened pretty much at the same time, if
 25 my memory is correct.

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1 Rajan Lai
 2 Q Which one?
 3 A The Rose Club and The Palm Court.
 4 Q What kind of training did the
 5 bartenders receive when they were rehired in
 6 2008?
 7 A They received -- Fairmont had beverage
 8 training program. I think it was called
 9 FAME. I'm not sure what the acronym
 10 represents, but I know that they were trained
 11 in mixology, how to make drinks and the
 12 different versions of various cocktails. How
 13 to pour, how to serve. I'm assuming -- I
 14 never went through the training, but part of
 15 my -- I was responsible for ensuring that the
 16 training did take place and worked with the
 17 food and beverage director, called the
 18 training service to The Plaza and have them
 19 do the training for the bartenders.
 20 Q When did The Champagne Bar open?
 21 A I don't recall the exact date when it
 22 opened, but I would venture it would be
 23 March 1.
 24 Q The Champagne Bar opened on March 1?
 25 A Yes, because that's when we actually

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1 Rajan Lai
 2 opened. We had an inauguration on March 1.
 3 Q When did the training for the newly
 4 hired and the rehired bartenders take place?
 5 A I know there were a few training
 6 programs that were done. I don't know
 7 exactly when that were done, but I would
 8 again venture to say that they were done
 9 prior to the opening in February. The whole
 10 idea was to bring the staff on board to give
 11 us at least six weeks to train, so we were
 12 carrying significant payroll, but we were not
 13 sufficiently open for business. But that was
 14 part of the preopening strategy and
 15 preopening cost that we had to absorb to
 16 train all the staff, because again, the whole
 17 push was to open the hotel, was a Five Star,
 18 Five Diamond hotel.
 19 Q Was there a probationary period for
 20 rehired employees?
 21 A There was, according to the site
 22 agreement, yes.
 23 Q How long was the probation period?
 24 A Again, I forget exactly, but I think
 25 somehow 180 days seems to stay in my mind,

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1 Rajan Lai
 2 that they had to be certified within 180
 3 days.
 4 Q Certified, what do you mean?
 5 A Certified in Five Star service. That
 6 was the precondition for the recall that
 7 everybody would have to reach the new service
 8 standards of.
 9 Q What about for the newly hired
 10 employees? Did they have a probationary
 11 period of the same duration?
 12 A No, I think that was lengthier.
 13 Q Theirs was lengthier?
 14 A Yes, sir.
 15 Q As far as you know, did Carlos Rivera
 16 pass his probation?
 17 A He passed the service standard
 18 certification, I believe, if my memory is
 19 correct, yes.
 20 Q Was there any difference in the
 21 training that bartenders received and the
 22 private dining bartenders that were recalled
 23 to work?
 24 MS. McCLINTOCK: Object to
 25 form.

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1 Rajan Lai
 2 A I don't know, sir. I didn't sit
 3 through the actual training.
 4 Q Did seniority play any role in The
 5 Plaza's determination as to who would work
 6 The Champagne Bar or who would work at The
 7 Palm Court or The Rose Club?
 8 A Seniority played -- within the
 9 classification, there would be seniority.
 10 Now, the opposition vis-a-vis The Rose Club
 11 and The Champagne Bar was that it was an
 12 interchangeable bar, in the sense that staff
 13 would bartend between the two bars.
 14 Q The Rose Club and --
 15 A The Champagne Bar.
 16 Q How many job classifications existed
 17 for a bartender in 2008?
 18 A There was a Palm Court bartender and
 19 there was a Rose Club bartender and a
 20 Champagne Bar bartender.
 21 Q Were these job classifications
 22 identified anywhere in writing?
 23 A Well, the schedules. On their work
 24 schedule.
 25 Q Did the collective bargaining

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1 Rajan Lai
 2 agreement have the classifications that you
 3 just identified?
 4 A Not -- they're not memorialized in the
 5 collective bargaining agreement because that
 6 is in-house. That is unique to The Plaza.
 7 The collective bargaining agreement has basic
 8 classification for the bartender and service
 9 bartender are the two classifications.
 10 Q But at the time that The Plaza
 11 reopened in 2009, there was only one job
 12 classification for bartenders; is that right?
 13 A There was a classification of a
 14 bartender.
 15 Q One classification for bartenders; is
 16 that right?
 17 A There was a classification for a
 18 bartender, yes. Yes.
 19 Q You stated that seniority played a
 20 role with respect to assignments?
 21 A Within that room, yes.
 22 Q I don't understand what you mean
 23 "within that room"?
 24 A So, for instance, if I'm the bartender
 25 at The Rose Club, that's where I work, that's

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1 Rajan Lai
 2 my bar. If I'm a senior man, then I have
 3 first right to work the shift of my choice,
 4 first right for taking days off of the week.
 5 If there was a layoff, based on my seniority,
 6 I wouldn't be laid off. Based on my
 7 seniority.
 8 Q The job classification for bartenders
 9 was limited to each bar; is that your
 10 testimony?
 11 A Yes, unique to the room.
 12 Q To the room?
 13 A To the room. To the bar. For
 14 instance, the bar.
 15 Q Your understanding of how job
 16 classifications applied to the specific bars,
 17 is that memorialized anywhere in the
 18 collective bargaining agreement or the
 19 industry-wide agreement; yes or no?
 20 MS. McCLINTOCK: Objection to
 21 form.
 22 A No.
 23 Q When positions became available in
 24 early 2008 for the bartender position, were
 25 there any job postings at the work site?

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1 Rajan Lai
 2 MS. McCLINTOCK: Objection to
 3 form.
 4 A Say that again.
 5 MR. ZAPATA: I'll ask it again.
 6 Q Whenever vacancies arose at The Plaza,
 7 was it The Plaza's practice to post job
 8 openings?
 9 A Yes, sir.
 10 Q Where would these job openings be
 11 posted?
 12 A We have a notice board outside human
 13 resources. On that notice board, we would
 14 post all the positions.
 15 Q With respect to the individuals that
 16 were hired in early 2008 to work as
 17 bartenders at The Plaza Hotel, were those
 18 positions posted outside the human resources
 19 office?
 20 A Once we opened the doors, yes. Once
 21 we got established, yes.
 22 Q How long would these openings be
 23 posted for?
 24 A Until they were filled. Or until the
 25 job was taken off. Or in some instances we

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1 Rajan Lai
 2 would open the job, and then maybe for a
 3 number of reasons close it up for a month or
 4 so.
 5 Q When did you first meet Carlos Rivera?
 6 A When he reported to The Plaza.
 7 Q Can you give us a year for the record?
 8 A 2008.
 9 Q Around what month?
 10 A January.
 11 Q Was that the first time you met him?
 12 A Yes, sir.
 13 Q Did Carlos ever complain to you about
 14 his job assignment in early 2008 after you
 15 rehired him or recalled him?
 16 A Once in the cafeteria, I had gone
 17 to -- I forget, I must have gone to get
 18 something to drink, and Carlos was in the
 19 cafeteria and he mentioned to me that he
 20 working in The Palm Court. And that was the
 21 extent of my conversation with him.
 22 Q He just came up to you and said I'm
 23 working at The Palm Court?
 24 A He said he's working at The Palm Court
 25 and I think he might have said why is he

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1 Rajan Lai
 2 working at The Palm Court, something to that
 3 effect, and I explained to him that his
 4 classification was that of a private dining
 5 bartender when The Plaza closed and that
 6 position was not available. However, he was
 7 asked to come back, he's exercising his
 8 recall rights, and that's why he was
 9 recalled, and that's why he was in The Palm
 10 Court.
 11 Q How did he respond?
 12 A That was the extent of it.
 13 Q Did you speak to Carlos ever again
 14 about his dissatisfaction?
 15 A Not until the arbitration.
 16 Q When did you have that conversation
 17 with Carlos in the cafeteria?
 18 A I don't recall the exact date, but it
 19 was early 2008.
 20 Q Did you ever have any conversations
 21 with Eddie Cedeno?
 22 A I did have a conversation with Eddie
 23 Cedeno.
 24 Q Just for the record can you tell us
 25 who Eddie Cedeno is?

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1 Rajan Lai
 2 A In 2008 he was the vice president of
 3 Local 6.
 4 Q Do you know what union Carlos Rivera
 5 was in?
 6 A Yes.
 7 Q What union was that?
 8 A Local 6.
 9 Q Did you ever have any conversations
 10 with Eddie Cedenro regarding Carlos Rivera's
 11 dissatisfaction at being assigned to work at
 12 the Palm Court after being recalled in 2008?
 13 A To my recollection, I did have a
 14 conversation with Eddie Cedenro regarding
 15 Carlos Rivera's position at The Plaza. I do
 16 recall, yes.
 17 Q What did Eddie Cedenro say to you?
 18 A Eddie Cedenro took the position that
 19 all the bartenders in The Plaza -- I had
 20 conversations with Eddie Cedenro because of
 21 Oak Room bartenders on the recall list.
 22 There was the Oyster Room bartenders on the
 23 recall list and there were private Dominican
 24 Republic bartenders on the recall list. So,
 25 my conversations were with regard to which

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1 Rajan Lai
 2 bartenders would be recalled to which
 3 positions, because we didn't have --
 4 Q I guess you're going beyond the
 5 question. My question was just did you have
 6 any conversations with Eddie Cedenro regarding
 7 Carlos Rivera's assignment to The Palm Court
 8 when he was recalled by The Plaza in 2008?
 9 MS. McCLINTOCK: I object and
 10 ask that you let the witness complete
 11 his answer. I don't think that was
 12 the same question that was pending.
 13 MR. ZAPATA: Can you read that
 14 back?
 15 MS. McCLINTOCK: I will again
 16 state that you let the witness finish
 17 his answer.
 18 MR. ZAPATA: Off the record.
 19 (Whereupon, a discussion was
 20 held off the record.)
 21 Q Do you want the reporter to read back
 22 the last question?
 23 A Sure.
 24 MR. ZAPATA: Can you please
 25 read it back.

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1 Rajan Lai
 2 (Whereupon, the reporter read
 3 back the testimony.)
 4 A Yes.
 5 Q Did you please tell us about the
 6 conversation?
 7 A I do recall having a conversation with
 8 Eddie Cedenro where Eddie asked me why Carlos
 9 was not in The Rose Club or The Champagne
 10 Bar.
 11 Q What did you say?
 12 A And I said that he was in The Palm
 13 Court based on his classification prior to
 14 The Plaza closing. where he was a private
 15 dining bartender. And based on that
 16 classification. he was recalled. We don't
 17 have a private dining bartender anymore. But
 18 he was recalled to The Palm Court bartender
 19 role.
 20 Q What did Eddie Cedenro say in response
 21 to that?
 22 A I do recall having a conversation with
 23 Mr. Cedenro regarding the possibility of
 24 offering Mr. Rivera an enhanced severance
 25 package since his prior classification was no

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1 Rajan Lai
 2 longer in existence, and I told him I would
 3 have to go to the ownership to discuss it
 4 with them to get their permission before I
 5 could put something on the table.
 6 Q Did Eddie Cedenro ever tell that you it
 7 appeared to be discriminatory that Carlos
 8 Rivera was not assigned to work at either The
 9 Champagne Bar or The Rose Club?
 10 A No.
 11 Q What was the discrimination complaint
 12 procedure at The Plaza that was in effect in
 13 early 2008?
 14 A We had a zero tolerance policy with
 15 regard to any form of discrimination or any
 16 form of harassment. We took this extremely
 17 seriously. And we made it very clear to all
 18 the colleagues in the building in the hotel
 19 part of the building that we controlled that
 20 if there was any instance of any perceived or
 21 alleged discrimination to bring it to the
 22 attention of human resources immediately.
 23 Q You would be one of those individuals?
 24 A Yes, we had a handbook. We had a
 25 separate policy.

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1 Rajan Lai
 2 Q What was the actual procedure?
 3 A The actual procedure is that they
 4 would come to human resources if they ever
 5 believed that they were subjected to any form
 6 of discrimination or harassment. They would
 7 come to HR, they would file a complaint. HR
 8 would do an investigation. HR would try to
 9 keep it confidential as much as humanly
 10 possible and get to the bottom of the
 11 complaint and to make a determination if
 12 there was any form of discrimination or
 13 harassment that actually took place, and then
 14 take action based on that.
 15 Q Did you ever conduct any
 16 investigations relating to complaints of
 17 discrimination during your tenure at The
 18 Plaza Hotel?
 19 A Several.
 20 Q Can you tell us about the first one?
 21 A There was an instance very early on.
 22 I think this was the first one, where we had
 23 created a new department in The Plaza which
 24 was butlers. We were offering butler service
 25 on every floor. And we had hired initially

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1 Rajan Lai
 2 probably close to 30 butlers in the hotel.
 3 And one of the butlers came to me with a
 4 photograph where they had taken in the
 5 cafeteria of the group, and in that
 6 photograph one of the butlers had changed the
 7 pictures in the sense that he was -- he
 8 altered the pictures, which smacked of
 9 discrimination. He put horn, a devil on one
 10 picture. He was alluding to I believe
 11 somebody's sexual orientation, and he had
 12 changed it to reflect that. Made a male very
 13 feminine-looking.
 14 He had taken a lady and he had put a
 15 dot on her forehead, which is a culture in
 16 the Indian culture for a woman to put a dot
 17 on her forehead. So, that was brought to me
 18 as a form of harassment immediately. And I
 19 think that would probably be the first
 20 instance where I was asked to investigate a
 21 claim of harassment.
 22 Q Did you find that there was
 23 discriminatory conduct?
 24 A In this instance?
 25 Q Yes.

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1 Rajan Lai
 2 A Yes, sir.
 3 Q What happened to that person who
 4 violated the policy?
 5 A He was suspended.
 6 Q How about the second investigation?
 7 A It's hard for me to be precise as to
 8 what the second investigation was. It was a
 9 claim of discrimination raised by an engineer
 10 where he claimed that his manager had
 11 indulged in certain conversations with him
 12 that he construed to be discriminatory, and
 13 most of it was sort of in the engineering
 14 shop talking about motorcycles and beer and
 15 issues such as those. And he claimed that
 16 there was some discrimination intended or
 17 something to that effect. So, that was
 18 another charge that I had to look into.
 19 Q What did you find?
 20 A No, there was no validity. The union
 21 was involved. There was no basis to
 22 determine that there was any discrimination
 23 there.
 24 Q The first case that you just
 25 identified, where you said you found that

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1 Rajan Lai
 2 somebody had engaged in discrimination, whose
 3 attention was this complaint brought to?
 4 MS. McCLINTOCK: Object to
 5 form.
 6 A It was brought to my attention by one
 7 of the butlers who was in the photograph, who
 8 took offense to the fact that she was
 9 portrayed in this particular way in this
 10 picture.
 11 Q What was her background?
 12 A I think she was Hispanic.
 13 Q Carlos filed a grievance in connection
 14 with his assignment in The Palm Court; is
 15 that right?
 16 A Grievance with the union?
 17 Q Yes.
 18 A Yes, sir.
 19 Q Was that grievance brought to your
 20 attention?
 21 A Yes, through the grievance process.
 22 Q When was it brought to your attention?
 23 A Typically when the grievances are
 24 filed. I think within ten days of the filing
 25 notices go out to all the parties that a

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1 Rajan Lai
 2 grievance has been filed.
 3 Q Do you know when Carlos filed his
 4 grievance?
 5 A I would have to look at the actual
 6 grievance to find out. It had to have been
 7 in 2008.
 8 Q If you know, about how long does a
 9 union member have to bring forward a
 10 grievance before the statute of limitations
 11 kicks in?
 12 A Well, according to the letter of
 13 industry-wide agreement, it's ten days.
 14 Q Is it fair to say that Carlos probably
 15 brought his grievance forward in early
 16 2008 -- is that fair to say?
 17 MS. McCLINTOCK: Object to
 18 form.
 19 A No, it wasn't early in 2008. It was
 20 towards the end, I would say. Mid to end of
 21 2008. I would say the latter part of 2008.
 22 Q Are you guessing?
 23 A I'm just trying to piece the
 24 chronology because I remember when the
 25 arbitrator wrote the decision. That was

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1 Rajan Lai
 2 early in 2009. So, it had to have been
 3 towards the latter part of 2008.
 4 Q What, if anything, did you do after
 5 you learned that Carlos Rivera filed a
 6 grievance?
 7 A I had to respond to the grievance.
 8 Q What did you understand the complaint
 9 in the grievance to be?
 10 A It should be listed other than the
 11 actual notice of the grievance. I went by
 12 what was listed in the grievance.
 13 Q Do you remember what the nature of
 14 Carlos Rivera's complaint was in his
 15 grievance?
 16 A Yes, the nature of the grievance was
 17 that he was -- it was around the recall to a
 18 service bartender classification.
 19 Q I'm sorry?
 20 A To a service bartender classification.
 21 Again, I have to read the actual notice of
 22 grievance, but that was the grievance, that
 23 he should not have been recalled to The Palm
 24 Court, that he should have been recalled to
 25 The Rose Club or The Champagne Bar.

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1 Rajan Lai
 2 Q I'm going to show you this document I
 3 would like to have marked for identification
 4 as P-8.
 5 (Whereupon arbitration decision
 6 document is marked Plaintiff's Exhibit
 7 8 for identification as of this date.)
 8 Q Do you recognize the document I have
 9 just given you?
 10 A Yes, I do.
 11 Q What do you recognize it to be?
 12 A This is the decision made by
 13 Arbitrator Shriftman, who heard the
 14 grievance -- pardon me, Ira Drogin,
 15 D-R-O-G-I-N, is the arbitrator.
 16 Q How do you recognize that document?
 17 A Because I was mailed a copy. I
 18 received a copy.
 19 Q When did you receive a copy?
 20 A Soon after the decision was made.
 21 That's the practice.
 22 Q For the record, if you can give us a
 23 ballpark date.
 24 A It's dated August 28, 2009, so I must
 25 have received it probably by, you know, a

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1 Rajan Lai
 2 week after.
 3 Q To be clear, did you just say that
 4 it's dated August 28?
 5 A August 28, 2009, is what the date is
 6 of this.
 7 Q Where is it?
 8 A On the top right-hand corner.
 9 Q And that says what?
 10 A August 28, 2009. Oh, pardon me,
 11 April 28, 2009.
 12 Q Do you know what this document that
 13 has been identified as P-8 addresses?
 14 A It addresses the grievance and the
 15 arbitrator's findings based on the evidence
 16 that was presented.
 17 Q Do you know what the arbitrator's
 18 finding was?
 19 A The arbitrator's finding was that
 20 Mr. Rivera should be made whole and that his
 21 seniority rights had been violated and he
 22 should be offered based on seniority a
 23 position in The Rose Club.
 24 Q That's what happened?
 25 A Yes. In fact --

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1 Rajan Lai
 2 Q There is no question pending.
 3 MS. McCLINTOCK: I object. I
 4 ask that you let the witness complete
 5 his answer.
 6 MR. ZAPATA: There was no
 7 question pending.
 8 MS. McCLINTOCK: You cut him
 9 off before you answered. Did you want
 10 to complete your answer to that
 11 question?
 12 MR. ZAPATA: I think his answer
 13 was complete. You'll have an
 14 opportunity to ask him questions when
 15 I'm done.
 16 Q Did you ever have any conversations
 17 with Mr. Evangelista regarding Carlos
 18 Rivera's assignment to The Palm Court in
 19 early 2008?
 20 A Yes. I believe I did, yes.
 21 Q Can you please tell us what the
 22 substance of those conversations were.
 23 A The substance was that Mr. Rivera
 24 would be assigned as a Palm Court bartender.
 25 Q Were you ever made aware by

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1 Rajan Lai
 2 Mr. Evangelista of any complaints that
 3 Mr. Rivera had made regarding his assignment
 4 to The Palm Court?
 5 A No.
 6 Q How about Mr. Bueno. Did you have any
 7 conversations with Mr. Bueno regarding Carlos
 8 Rivera's assignment to The Palm Court in
 9 2008?
 10 A It would have been on the same lines
 11 that I had with Mr. Evangelista.
 12 Q Did Mr. Bueno bring to your attention
 13 any complaints that Carlos Rivera had made
 14 regarding his assignment to The Palm Court?
 15 A Not that I can recall.
 16 (Whereupon, a discussion was
 17 held off the record.)
 18 MR. ZAPATA: I'm going to show
 19 you this document that I would like to
 20 have marked for identification as P-9.
 21 (Whereupon document is marked
 22 Plaintiff's Exhibit 9 for
 23 identification as of this date.)
 24 Q Do you recognize the document that I
 25 have just given you that has been marked for

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1 Rajan Lai
 2 identification as P-9?
 3 MS. McCLINTOCK: Can you wait
 4 for the witness to finish reading it?
 5 A I've seen this document, yes.
 6 Q How do you recognize the document?
 7 A I recall having seen it before.
 8 Q When did you first see it, if you
 9 remember?
 10 A It's dated February 9, 2008, so it
 11 must have been sometime then.
 12 MR. ZAPATA: I'm going to show
 13 you this document that I'm going to
 14 have marked for identification as
 15 P-10.
 16 (Whereupon document is marked
 17 Plaintiff's Exhibit 10 for
 18 identification as of this date.)
 19 Q Do you recognize the document that I
 20 have just given you?
 21 A It's the same document you showed me.
 22 It has a different date with no signature.
 23 Q Do you recognize that one?
 24 A I don't, no.
 25 MR. ZAPATA: I'm going to show

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1 Rajan Lai
 2 you this document I'd like to have
 3 marked for identification as P-11.
 4 (Whereupon employee action form
 5 is marked Plaintiff's Exhibit 11 for
 6 identification as of this date.)
 7 Q Do you recognize the document that
 8 I've just given you that's been marked for
 9 identification as P-11?
 10 A Yes.
 11 Q What do you recognize this document to
 12 be?
 13 A This is an Employee Action Form. We
 14 call it an Employee Action Form in The Plaza.
 15 Q How do you recognize this?
 16 A Because we used it in the hotel.
 17 Q Is that your signature at the bottom
 18 of the page?
 19 A Yes, it is.
 20 Q Why did you sign this document?
 21 A To put Mr. Rivera on the payroll.
 22 MR. ZAPATA: I'm going to show
 23 you this document. I'd like to have
 24 this document marked as P-12.
 25 (Whereupon document is marked

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1 Rajan Lai
 2 Plaintiff's Exhibit 12 for
 3 identification as of this date.)
 4 Q Do you recognize this document?
 5 A I've seen similar documents, yes.
 6 Q Are you familiar with this document?
 7 A Not this particular document, but I
 8 know of documents --
 9 Q The form?
 10 A Yes, that's correct, the form.
 11 Q This form was used by The Plaza in
 12 2008; isn't that right?
 13 A That's right.
 14 Q Do you know what the purpose of using
 15 this form was?
 16 A The purpose of the form was to account
 17 for a cash bank. Cash was given to certain
 18 classifications in the hotel.
 19 Q What classifications?
 20 A Front desk agents, bartenders. It
 21 could have been food and beverage service.
 22 I'm not sure whether we gave them a bank or
 23 they made their own change from their own
 24 resources.
 25 Q Did the bartenders that worked at The

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1 Rajan Lai
 2 Palm Court in 2008 handle money; yes or no?
 3 MS. McCLINTOCK: Object to
 4 form. It may not be a yes or no
 5 answer.
 6 A I wouldn't know.
 7 Q Have you ever been to The Palm Court?
 8 A Yes.
 9 Q Are you familiar with The Palm Court?
 10 A Yes.
 11 Q Are you familiar with the bar at The
 12 Palm Court?
 13 A Yes.
 14 Q Is there a cash register there?
 15 A No, the cash register was not in the
 16 bar area. It was in the -- there were two
 17 service areas. There was another service
 18 area, but there is a cash register there.
 19 Q I'm going to ask that you just answer
 20 my questions.
 21 A Certainly.
 22 Q The bartenders assigned to work at The
 23 Palm Court, were they required to stay in the
 24 bartender station for most of their shift?
 25 MS. McCLINTOCK: Object to

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1 Rajan Lai
 2 form.
 3 A I wouldn't know exactly if they were
 4 allowed to move out of the station or stay
 5 within the station. That was discretionary,
 6 up to the management.
 7 Q Were there any managers that worked at
 8 The Plaza around 2008 that had been working
 9 at The Plaza prior to its closure in 2005?
 10 A Yes, there were some who had been
 11 recalled, yes, who had worked at The Plaza,
 12 pardon me, before.
 13 Q Can you tell me?
 14 A Cynthia Scherer. She is director of
 15 sales marketing.
 16 Q Is there an individual named Karim?
 17 A Yes.
 18 Q Spell that.
 19 A K-A-R-I-M A-B-D-E-L H-A-M-I-D.
 20 Q What was his position?
 21 A He was director of room dining and
 22 subsequently he transferred to sales and
 23 marketing.
 24 Q Did you ever have any conversations
 25 with Karim regarding Carlos Rivera's position

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1 Rajan Lai
 2 at The Plaza prior to its closure in 2005?
 3 A Yes, I think I did have a conversation
 4 with Karim.
 5 Q Can you please tell us about it.
 6 A I asked him if he had any recollection
 7 of where Mr. Rivera was prior to closing.
 8 Q What did he say?
 9 A Private dining. As a private dining
 10 bartender.
 11 Q That's what he told you?
 12 A Yes, sir.
 13 Q When did he tell you that?
 14 A It must have been 2008.
 15 Q Do you remember when in 2008?
 16 A I wouldn't know the exact date.
 17 Q Was it the first half of 2008?
 18 A I would probably think so, yes.
 19 Q What sparked the conversation?
 20 A I think when Mr. Cedeno raised the
 21 issue that Mr. Rivera should be working in
 22 The Rose Club or Champagne Bar, and some of
 23 these letters that I had received, so...
 24 Q Aside from speaking to Karim, did you
 25 speak to anybody else in an effort to

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1 Rajan Lai
 2 ascertain what Carlos Rivera's position was
 3 at The Plaza Hotel prior to 2005?
 4 A Yes, I spoke to the pay master. She
 5 was in the old Plaza. So I did speak to her.
 6 Q Why did you speak to her?
 7 A Because that would reflect which
 8 department his wages have been charged to.
 9 Q Did you make any other efforts aside
 10 from what you've already told us?
 11 A I believe I spoke to Evangelista, who
 12 was also one of the managers that worked at
 13 the old Plaza.
 14 Q What did he say?
 15 A My memory -- to the best of my memory,
 16 he said he was in the private room, private
 17 dining, but they did work beyond private
 18 dining. They would be called out if they had
 19 large functions and banquets, for instance.
 20 They would assist in other functions as well.
 21 Q Did you ever look at the old work
 22 schedules?
 23 A I didn't have them.
 24 Q When you say you didn't have them, do
 25 you know that The Plaza didn't have them or

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1 Rajan Lai
 2 you just didn't have them?
 3 A They were not on the property.
 4 Q Were they in storage?
 5 A No.
 6 Q Could you have obtained them?
 7 A No.
 8 Q Did you ask the union?
 9 A I might have asked the union if they
 10 had any evidence, yes. We did have
 11 conversations in terms of seniority
 12 positions, and the union didn't have any
 13 information.
 14 Q Evangelista told you that Carlos
 15 Rivera worked in private dining, but he also
 16 worked at the observing bar?
 17 MS. McCLINTOCK: Object to
 18 form.
 19 A That there was a practice in the old
 20 Plaza where if they had large functions in
 21 various outlets they would draw from other
 22 departments is what he said, yes.
 23 Q Did you attempt to communicate with
 24 any other former employees of the human
 25 resources department in an effort to

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1 Rajan Lai
 2 ascertain what Carlos Rivera's was prior to
 3 2005?
 4 A I did try to contact the director of
 5 human resources at the old Plaza. I was
 6 never able to get through to him. He never
 7 returned my calls. I do remember having
 8 conversations with the gentleman who had
 9 signed the letter, the human resource
 10 manager.
 11 Q When you say the letter, are you
 12 referring to this individual --
 13 A That's right.
 14 MR. ZAPATA: Let the record
 15 reflect that he's referring to --
 16 Q Actually, tell us what you're
 17 referring to.
 18 A I do recall having a conversation with
 19 David Jones in terms of discussing some
 20 labor-related issues with him, yes.
 21 Q Did you ask him about Carlos Rivera?
 22 A You know, I can't recall the gist of
 23 the conversation as to whether I spoke
 24 specifically about Carlos or Carlos and some
 25 other people. I honestly don't recall.

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1 Rajan Lai
 2 Q You did speak about Carlos, though?
 3 A I did make contact with David Jones.
 4 I don't recall in what context I made contact
 5 with him.
 6 Q When was the first time you saw this
 7 letter again, and I'm referring to P-5?
 8 A I don't recall the precise date when I
 9 saw it. I don't recall the exact date.
 10 Q Did Carlos or the union ever bring to
 11 your attention any complaints regarding the
 12 work environment that Carlos was asked to
 13 work in when he was assigned to work in The
 14 Palm Court?
 15 A The union? I don't recall the
 16 union -- having any discussions with the
 17 union, no.
 18 Q Did Carlos ever complain to you that
 19 it was too hot in The Palm Court bar?
 20 A I don't recall specifically Carlos
 21 complaining, but I do recall that it was hot.
 22 There was a malfunction of the air
 23 conditioning system.
 24 Q When you say there was a malfunction
 25 in the air conditioning system, can you

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1 Rajan Lai
 2 please elaborate?
 3 A To the best of my understanding, there
 4 was a problem with the air conditioning and
 5 there was a period of time where the air
 6 conditioning wasn't working, but we
 7 alleviated that by bringing in portable fans.
 8 We might have even brought in portable air
 9 conditioner, I'm not sure, but it was an
 10 electrical malfunction.
 11 Q Do you know who Nancy Bravo is?
 12 A Yes.
 13 Q Who is she?
 14 A She is a pay master.
 15 Q Did you ever ask her about Carlos
 16 Rivera's position at The Plaza prior to 2005?
 17 A Yes. I mentioned that, yes.
 18 Q What did she tell you?
 19 A That his wages were being charged in
 20 room dining.
 21 Q Did she tell you that he worked at the
 22 observing bar?
 23 A No.
 24 MR. ZAPATA: Off the record.
 25 (Whereupon, a discussion was

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1 Rajan Lai
 2 held off the record.)
 3 Q Do you know if Carlos ever filed a
 4 charge of discrimination with the Equal
 5 Employment Opportunity Commission?
 6 A Yes.
 7 Q When did you first learn?
 8 A When I was served with the charge.
 9 Q What did you do in response to being
 10 served?
 11 A I put in a position statement.
 12 Q Did you draft it?
 13 A I drafted it along with legal counsel.
 14 Q When was the first time that you
 15 actually saw Carlos Rivera work in the
 16 capacity of a bartender?
 17 A When he came back to The Plaza.
 18 Q When?
 19 A In 2008.
 20 Q When in 2008?
 21 A He was recalled in January 2008 and
 22 the hotel opened in March 2008. So I would
 23 work around with him. I would speak to
 24 Mr. Rivera at The Palm Court, and that's
 25 where I saw him.

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1 Rajan Lai
 2 Q Are we talking about March 2008?
 3 MS. McCLINTOCK: Object to
 4 form. Asked and answered.
 5 A March is when the hotel officially
 6 opened to the public.
 7 Q It's around March?
 8 A Yes.
 9 MR. ZAPATA: I have no further
 10 questions. Thanks.
 11 MS. McCLINTOCK: I don't have
 12 anything.
 13 (Time noted: 12:26 p.m.)
 14
 15

 RAJAN LAI

16
 17 Subscribed and sworn to before me
 18
 19 this day of , 2011
 20

 Notary Public

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1
 2 EXHIBITS
 3 PLAINTIFF'S
 4 FOR IDENTIFICATION DESCRIPTION PAGE
 5 1 Trades Council version of industry-wide 17
 6 collective bargaining agreement
 7 2 Side agreement 22
 8 3 Letter from Rajan Lai to Carlos Rivera 24
 9 4 Document 25
 10 5 Document 30
 11 6 Seniority list of bartenders 32
 12 7 Champagne Bar schedule 42
 13 8 Arbitration decision 63
 14 9 Document 66
 15 10 Document 67
 16 11 Employee Action Form 68
 17 12 Document 68
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